



UNITED STATES PATENT AND TRADEMARK OFFICE

HD

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,252	01/06/2004	Ramiro H. Bravo	TRG0001	4011
27187	7590	04/19/2007	EXAMINER	
BAKER & DANIELS LLP 205 W. JEFFERSON BOULEVARD SUITE 250 SOUTH BEND, IN 46601			ESTREMSKY, GARY WAYNE	
			ART UNIT	PAPER NUMBER
			3676	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	04/19/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/752,252	BRAVO ET AL.
	Examiner	Art Unit
	Gary Estremsky	3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 March 2007.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-43 is/are pending in the application.
 4a) Of the above claim(s) 39 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-38 and 40-43 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 06 January 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received:

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/11/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claim 39 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected embodiment of the invention. Election was made without traverse in the reply filed on 3/29/07.

Claim Objections

2. Claim 22 is objected to because of the following informalities: recitation of "the bolt" lacks clear antecedent basis in the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-7, 11-14, 16-21, 29, 30, 36, 37, and 40-43 are rejected under 35 U.S.C. 102(a) and 102(e) as being anticipated by U.S. Pat. Application Publication No. 2005/0044903 to Ling.

Ling '903 teaches Applicant's claim limitations including : a "housing" – 10, an "opening to receive the hasp or hardware" – 50 noting that the opening of the reference is inherently capable of receiving appropriate-shaped door hardware or hasp with emphasis on the fact that only the "opening" is claimed and not the hasp or hardware of a door, a "locking member" – including the tapered extremity and adjacent circumferential groove of portion 20, a "locking pin" – 111, a "spring" – 112.

As regards claim 5, Ling '903 discloses a "second spring" – 30.

As regards claim 12, the functional portions of the bores wherein 111 and 20 operate are arranged to form an upside down "T-shaped configuration".

As regards claim 13, the locking member of the reference is inherently capable of being inserted through a portion of an appropriately-shaped hasp or hardware and into its locking position with emphasis on the fact that only the "opening" is claimed and not the hasp or hardware of a door.

As regards claim 36, the portion of 10 receiving 50 reads on "base" and the upper portions above it on "cover". The law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789.

As regards claim 37, the outer opening in 10 to receive 20 reads on "side wall" limitation and the reduced diameter hole portion therein is through what amounts to be a "flange".

As regards claims 41-43, Ling '903 discloses a cable retractor mechanism in Fig's 6 which cannot be pulled from the locking mechanism in the locked position of Fig 6C due to "gripping mechanism" including 122.

5. Claims 22-28 are rejected under 35 U.S.C. 102(a) and 102(e) as being anticipated by U.S. Pat. No. 6,761,051 to Tsai.

Tsai '051 teaches Applicant's claim limitations including : a "housing" – including 1,3, a "locking member" – including the end portion of 23 that is shown to be inserted in right side (Fig 2) of the housing, an "electromechanical device" – including 61.

As regards claim 23, the term "removable" is literally interpreted as 'capable of being removed'. The term doesn't define any particular structure but describes a capability. The locking member of the reference is inherently capable of being removed insomuch as it is attached to the hasp, a separate element with respect to the balance of the locking mechanism apparently removably retained in its bore with a circlip type spring clip shown in cross section only. It has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. Application Publication No. 2005/0044903 to Ling.

Although the opening 1111 for engaging the locking member of the reference is not shown in plan view, it would have been an obvious design choice for one of ordinary skill in the art at the time of the invention to provide 111 with a radiused edge for fittingly engaging with the locking member 20 where examiner takes Official Notice that such shape is well known in the art and the proposed modification would not otherwise affect function of the device.

8. Claim 9, 10, 15, 31-35, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. Application Publication No. 2005/0044903 to Ling in view of U.S. Pat. No. 6,761,051 to Tsai.

Ling '903 discloses a locking mechanism as claimed except for the "electromechanical device". Tsai '051 discloses that it is well known in the art to operate a locking mechanism using an electromechanical device. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the locking mechanism of Ling '903 to include an electromechanical device as taught by

Tsai '051 instead of the mechanical combination wheels to allow for remote control operation as disclosed by Tsai '051.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,553,798 to Larsen.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3676

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gary Estremsky
Primary Examiner
Art Unit 3676